

Human Rights in Business

New supply chain reporting requirements for corporates in the UK



On 29 October 2015, a **new corporate duty to report on modern slavery and trafficking** came into force in the UK. The Government has also published its much-anticipated 'Practical Guide to Transparency in Supply Chains' but many key issues still need to be addressed.

The Modern Slavery Act

Commercial organisations must comply with the Act if they:

- ✓ have **operations in the UK**, regardless of their country of origin;
- ✓ **supply goods or services**; and
- ✓ have an annual **global turnover of £36 million or over**.

These organisations will be required to publish a **Slavery and Human Trafficking Statement** annually. There is a grace period, so organisations with a financial year-end before 31 March 2016 need not publish a statement for FY15/16.

This statement must be **approved and signed at the highest levels** within the organisation and made accessible via a link in a prominent place on the homepage of the organisation's website.

The new law is designed to promote good practice through greater transparency, relying mainly on the implicit threat of **reputational harm** caused by non-reporting. Legal penalties for non-compliance are weak, but organisations should be ready for increased scrutiny from civil society groups, coordinated by a newly created independent **Anti-Slavery Commissioner**.

How useful is the Guidance?

Businesses uneasy about vague provisions in the new law and expecting the Guidance to provide certainty will be disappointed. Importantly, "supply chains" remains undefined, what to include in the annual statement is not fully explained, and for some group structures it will remain unclear whether an organisation falls within the scope of the new reporting obligations at all.

By calling for a "common sense" approach and blurring assertions of "hard" obligations with "soft" aspirations, **the Guidance will leave many businesses unsure what is strictly required** of them to comply with the new rules.

However, the Guidance does provide reassurance on some **key points**:

- It confirms that the new law does not require affected organisations to guarantee their entire supply chain is slavery-free.

About Omnia Strategy

- Omnia is an international law firm providing strategic counsel to governments, corporates and private clients.
- We work with clients to help them achieve their international goals through our integrated expertise in law, governance, economics and communications.
- We help corporates assess their human rights impacts and provide creative solutions.
- We bring a unique multi-disciplinary approach to every project. To meet our clients' needs, we create tailor-made project teams to include solicitors and barristers, communication and human rights specialists as well as other leading experts in their fields.

- The new reporting requirement does not impose new legal requirements on organisations to assess modern slavery or human rights risks in operations or supply chains. Organisations may comply with their new transparency obligations simply by stating that they have taken no steps to tackle modern slavery or trafficking.

The wider context: business and human rights

The Modern Slavery Act is the latest addition to a fast-developing human rights framework that businesses now cannot afford to ignore. At its core lies the **UN Guiding Principles on Business and Human Rights**, which map out the corporate responsibility to respect human rights.

The Act also forms part of a growing body of human rights reporting obligations, alongside the **UK Companies Act**, the forthcoming **EU Non-Financial Reporting Directive** and the **gender pay gap reporting rules** to be introduced in the UK next year.

Conclusions

The new corporate duty to report on modern slavery and trafficking is expected to apply directly to around 12,000 organisations. Many more businesses will be affected indirectly through their position within the supply chains of organisations that will now have to report.

In the context of **evolving consumer, employee, investor and regulatory expectations**, failure to comply with the new law will present **significant reputational risks** for organisations.

Directors and partners must satisfy themselves that their annual statements are true and describe steps actually taken or started. All public statements must be accurate and evidence-based and ideally should demonstrate genuine engagement and set out sustainable steps taken to tackle this serious issue.

Strategic considerations for businesses

- **Board-level Endorsement** – The annual statement requires board-level approval and must be signed by a director. All parties involved must understand the legal and reputational risks, which may necessitate bespoke training.
- **Slavery and Trafficking Policy** – If your business does not have one, consider introducing a standalone Slavery and Trafficking policy or amending existing human rights policies.
- **Employee Training** – Employees across the business will be affected by the Act in different ways. Consider which employee groups require training on the Act and its implications for your business.
- **Due Diligence** – Identify and monitor risk areas of the business, including those managing suppliers. Where necessary, conduct audits to provide assurance of compliance and investigate any potential weaknesses.
- **Supplier Engagement** – Ensure supplier contracts require total compliance with the Act and other relevant standards. Where necessary, collaborate with suppliers to develop effective policies and procedures and monitor implementation.
- **Performance Monitoring** – Put in place tools to assess the on-going effectiveness of anti-slavery measures. Create key performance indicators and set targets based on the results of due diligence, and track performance.
- **Consider Reputation** – Ignoring slavery presents a major reputational risk. The Anti-Slavery Commissioner has indicated he will call for boycotts of businesses involved in or linked to slavery.
- **Holistic Integration** – Incorporating compliance procedures as part of a broader approach to human rights and other reporting obligations will not only help to ensure the business is compliant, but will enhance efficiency and position the business to achieve sustainable long-term growth.
- **Start Now** – Don't underestimate the amount of management time and expertise required. From 31 March 2016, the annual statement should be published within 6 months after the end of your financial year.